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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/712,504 | 11/13/2003 | Mindy Lee AllaBaugh | 1356-001 | 8936 |
| 7590 | 10/29/2004 | | EXAMINER | |
| John D. Albright, Esq. HEDMAN & COSTIGAN, P.C. 1185 Avenue of the Americas New York, NY 10036 | | | HOEY, ALISSA L | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3765 | |

DATE MAILED: 10/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|----------------------------|------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/712,504 | ALLABAUGH ET AL. |
| | Examiner Alissa L. Hoey | Art Unit 3765 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 13 November 2003.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-14 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-14 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 8-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Matthews (US 6,408,445).

In regard to claims 1 and 8, Matthews provides an item of hosiery comprising a panty section (figure 2 and 4), at least one removable full leg length hose member (14) and an attachment means (26, 54). The one garment member of the combination garment is provided with means to conceal contours of the attachment means (figure 13, identifiers 54, 44, 62). The attachment means (54) comprise at least one slat providing a covering layer external to the attachment means (figure 13, identifier 44).

In regard to claim 9, Matthews provides a method of supporting a hose portion of a combination pantyhose garment comprising removably attaching the hose portion via fastening means to a panty section of the combination pantyhose garment (column 2, lines 10-23).

In regard to claim 10, Matthews provides a method of replacing a damaged portion of a combination pantyhose garment comprising removing the damaged portion from a panty section of the combination pantyhose garment (column 3, lines 41-52). The removing of the damaged portion is done by unfastening an attachment means and

removably attaching a replacement hose portion to the panty section by fastening the attachment means (column 3, lines 41-67).

In regard to claim 11, Matthews provides a combination undergarment comprising a panty section and at least one removable full length leg member and an attachment means (figures 2-13).

In regard to claims 12-14, it is inherent that the pantyhose garment of Matthews is capable of being worn on a man, women and/or child and it is further inherent that the pantyhose garment can be worn for additional warm to the user.

3. Claims 1, 3, 4 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Porco (US 3,503,405).

In regard to claims 1, 3, 4 and 6, Porco provides an item of hosiery comprising a panty section (12), at least one removable full leg length hose member (34) and an attachment means (32, 44). The attachment means comprises reciprocal interlocking components affixed at intervals around a circumference of at least one leg opening of the panty section and at corresponding intervals around a circumference of a top portion of the hose member (figures 1-4). The attachment means is corresponding male and female snaps fasteners (column 3, lines 39-61).

4. Claims 1, 5 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Rice (US 6,393,622).

In regard to claims 1, 5 and 7, Rice provides an item of hosiery comprising a panty section (18), at least one removable full leg length hose member (16) and an attachment means (14). The attachment means comprises a hook and loop fastener

and the attachment means are removably affixed to at least one garment member of the pantyhose combination garment (figures 4, 5 and 6, identifiers 4, 5, and 6).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Porco in view of Gershman (Velcro Digest).

Porco provides a hosiery garment as described above. However, Porco fails to teach the attachment means being clip means comprising at least one double-ended clip with a clamping mechanism located at each end. Gershman teaches the equivalence and interchangeability of snap fasteners and double-ended clip means (metal clips or garter supporters) (see article).

It would have been obvious to have provided the pantyhose garment of Porco with the attachment means being double-ended clip means of Gershman, since the double ended clip means provides no permanent fasteners attached to the hose or the panty portion of the garment allowing for ease of laundering the garment without rusting or wearing out the fastening means by removing them during laundering.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bryan, Bjorn, Russell, Janhsen, Heggie, Keltner, Gordon,

Gluckin, Harris, Lowth, Miele, Tino, White, Cadoret, Oakley, Orr, Johnson, Ewing, Jones, Matthews, Ewing, Bozzini, Conti et al., Andrews and Johnson are all cited to show closely related pantyhose garments.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (703) 308-6094. The examiner can normally be reached on M-F (8:00-5:30)Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (703) 305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alissa L. Hoey
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Patent Examiner
Technology Center 3700